THE HON'BLE MR JUSTICE C.Y.SOMAYAJULU

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WRIT PETITION NO : 20899 of 1996

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DATED: 28-01-2006

Miriyala Babu Rao.

..... PETITIONER

AND

The Joint Collector ,
Kakinada, E.G.District & 4 others.

.....RESPONDENTS

ORDER:

This petition is filed questioning the cancellation of the Caste certificate of the petitioner on various grounds.

2. The main contention of the learned counsel for the petitioner is that since the respondents did not follow the procedure prescribed in Andhra Pradesh S.Cs. S.Ts and B.Cs Regulation of Issue of Community Certificates Act, 1993 (the Act) and since no opportunity of being heard at the preliminary stage of enquiry is given to the petitioner, the order cancelling the Caste certificate of the petitioner, is liable to be set aside.

3. The contention of the learned Government Pleader is that since the Act came into force only on 15-05-1997 and since the G.O.Ms.No.282 (SW) Department, dated 19-12-1988 (the G.O.) was in force, the procedure prescribed in the said G.O. was adopted and since a Division Bench of this Court in ***J.VIJAY KUMAR v. JOINT COLLECTOR & ADDITIONAL DISTRICT MAGISTRATE, NIZAMABAD*** held that

orders cancelling the Caste certificate under the G.O. can be questioned in an appeal to the Government, on equitable grounds, an opportunity can be afforded to the petitioner to question the orders impugned in an appeal.

4. Since there is no provision of appeal in the G.O. and since a Division Bench of this Court in J.Vijay Kumar's case (1 supra) permitted orders passed under G.O. being challenged in appeal to the Government, petitioner also can be extended the benefit of the right of appeal to the Government.

5. Therefore, the Writ Petition is disposed of with a direction to petitioner to prefer an appeal to the Government against the order impugned, within a period of 30 (thirty) days from today. The appeal, if preferred by petitioner, shall be entertained and shall be disposed of on merits by the Government as expeditiously as possible, at any rate within a period of two months from the date of preferring of the appeal. If the appeal is preferred within thirty days from today the interim stay granted earlier shall continue to be in force till the disposal of the appeal. If not the order impugned shall be in force. No costs.

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(C.Y.SOMAYAJULU,J)

28th January, 2006

Note:

Furnish C.C. by three days.

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